

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

REYNOLD A. JOHNSON

Plaintiff,

vs.

JOHN E. POTTER, POSTMASTER  
GENERAL UNITED STATES  
POSTAL SERVICE AGENCY,

Defendant.

C/A No. 1:09-971-MBS-JRM

**O R D E R**

On April 14, 2009, Plaintiff Reynold Johnson (“Plaintiff”) filed this *pro se* action alleging racial discrimination by his employer, Defendant John Potter, Postmaster General of the United States Postal Service Agency (“Defendant”). Entry 1. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph McCrorey for pretrial handling. The summons was issued on April 30, 2009. See Entry 7. On that same day, an order was issued notifying Plaintiff that, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, he was responsible for timely serving the summons on Defendant within 120 days from the date of entry of the order. See Entry 6. After the 120-day period expired, the Magistrate Judge filed a Report and Recommendation (1) advising Plaintiff to provide proof of timely service on Defendant or good cause for failure to serve Defendant within ten days; and (2) recommending that this court dismiss the complaint without prejudice if Plaintiff failed to submit proof of timely service or demonstrate good cause. See Entry 9. The Magistrate Judge’s Report and Recommendation was filed on September 8, 2009. On September 22, 2009, Plaintiff filed his objection to the Report and Recommendation. See Entry 12.

The Magistrate Judge makes only a recommendation to this court. The recommendation has

no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The district court is obligated to conduct a *de novo* review of every portion of the Magistrate Judge’s report to which objections have been filed. Id. The district court need not conduct a *de novo* review when a party makes only general and conclusory objections that do not direct the court to a specific error in the Magistrate Judge’s proposed findings and recommendations. Orpiano v. Johnson, 687 F.2d 44, 47-48 (4th Cir. 1982).

In his objection, Plaintiff asks the court to “find some basis for allowing this [case] to continue.” Entry 12. Plaintiff claims he did not timely serve the summons on Defendant because he thought the summons was a copy of what had been sent to Defendant by the court. When he received the Report and Recommendation, Plaintiff claims he figured out he had made a mistake. Under Rule 4(m), “[i]f a defendant is not served within 120 days after the complaint is filed, the court . . . must dismiss the action without prejudice against the defendant or order that service be made within a specified time.” Rule 4(m) requires that the court extend the time for service for an appropriate period if the plaintiff demonstrates good cause for the failure.

Here, Plaintiff failed to timely serve Defendant because he was confused about the court’s procedural process. The court finds that Plaintiff has demonstrated good cause for his failure, and hereby grants Plaintiff an additional **thirty days (30)** from the date of entry of this order to serve the summons on Defendant. If Plaintiff fails to serve Defendant within thirty days, Plaintiff’s action may be dismissed without prejudice to Defendant. Accordingly, this case is remanded to the Magistrate Judge for further pretrial handling.

**IT IS ORDERED.**

s/Margaret B. Seymour  
United States District Judge

February 4, 2010  
Columbia, South Carolina